

# City of Wildomar



Personnel Rules  
Updated July 2018

# CITY OF WILDOMAR PERSONNEL RULES AND REGULATIONS

## RULE I. GENERAL PROVISIONS.

- A. **Purpose.** These personnel rules are intended to establish and maintain an efficient and uniform personnel program for the City of Wildomar.
- B. **Nature of Employment.** All employees of the City of Wildomar are at-will employees. Their employment can be terminated by the City or the employee at any time, with or without cause, with or without notice, and with or without the right of appeal. Nothing in these personnel rules, in a contract for employment, or any other policy adopted by the City, should be interpreted in a manner that would cause the employee's employment to be other than at-will.
- C. **Applicability.** Unless otherwise specifically stated either in these Rules or in a contract for employment or resolution or ordinance of the City Council, the provisions of these personnel rules apply to all employees of the City of Wildomar. Further, in the event of a conflict between these Rules and a contract for employment, the terms of the contract for employment will control.
- D. **Not an Employment Contract.** None of these personnel rules shall be deemed to create a vested contractual right for any employee.
- E. **Amendment of Personnel Rules.** The City Council shall have authority to adopt, amend, or repeal these personnel rules by resolution. The Personnel Officer shall have authority to prepare and recommend revisions to the personnel rules.
- F. **Adoption of Administrative Policies.** The Personnel Officer is hereby authorized to adopt administrative policies, so long as said administrative policies are not in direct conflict with these personnel rules.
- G. **Delegation of Authority.** Except as otherwise provided, any duties, responsibilities, powers, and authority granted by these personnel rules or the personnel ordinance to the City Manager, appointing authority, Personnel Officer, Department Head, or any other person may be delegated, in writing, to any other employee at the discretion of the delegating individual.
- H. **Changes to the Law.** When any local, state, or federal ordinance, regulation, or law that is incorporated in the personnel rules or upon which the personnel rules rely is amended, the personnel rules shall be deemed amended in conformance with those amendments.
- I. **Severability.** If any section, subsection, sentence, clause, or phrase of the personnel rules is found to be illegal by a court of competent jurisdiction, such

findings shall not affect the validity of the remaining portions of the personnel rules.

## **RULE II. DEFINITIONS.**

- A. General Definitions. All words and terms used in these personnel rules and in any resolution or ordinance dealing with personnel policies, system, or procedures shall be defined as they are normally and generally defined in the field of personnel administration.
- B. Specific Definitions.
1. "Acting appointment" means a temporary appointment of an employee who possesses at least the minimum qualifications established for a particular class and who is appointed to a position in that class in the absence of available eligible incumbents, or on an interim basis pending later appointment of an eligible person.
  2. "Advancement" means a salary increase within the limits of a pay range established for a class.
  3. "Allocation" means the assignment of a single position to its proper class in accordance with the duties performed, and the authority and responsibilities exercised.
  4. "Appointing authority" means the City Manager or his/her designee.
  5. "At-will employee" means an employee whose employment can be terminated by the City or the employee, at any time, with or without cause and with or without notice.
  6. "Class" means all positions sufficiently similar in duties, authority, and responsibility, to permit grouping under a common title in the application with equity of common standards of selection, transfer, demotion and salary.
  7. "Compensation" means the salary, wage, allowance, and all other forms of valuable consideration earned by or paid to any employee by reason of service in any position, but does not include expenses authorized and incurred incidental to employment.
  8. "Continuous service" means service in the employ of the City without a break or interruption. Unless otherwise required by law, a severance of the employee from his or her employment initiated by either the City or the employee for periods of more than 30 days constitutes a break in continuous service.

9. "Council" or "City Council" means the City Council of the City of Wildomar.
10. "Day" or "days" means calendar day(s), unless otherwise stated.
11. "Demotion" means the movement of an employee from one class to another class having a lower maximum base rate of pay.
12. "Department Head" means the administrative head of every department in the City.
13. "Disciplinary action" means the discharge, demotion, reduction in pay, suspension, or reprimand of an employee for punitive reasons.
14. "Eligibility list" means the list which contains the names of successful applicants according to relative performance on the total weighted examinations.
15. "Full-time employees" means employees whose positions require the employee work at least 40 hours in a workweek. All positions shall be full-time unless otherwise designated, or unless the compensation is fixed upon the basis of part-time work.
16. "Personnel Officer" means the City Manager or his/her designee.
17. "Layoff" means the separation of employees from the active work force due to lack of work or funds, or to the abolition of positions by the City Council for the above reasons or due to organization changes.
18. "Part-time employees" means employees whose positions work less than 1,000 hours per year, are paid on an hourly basis and only receive fringe benefits that are specifically provided to part-time employees by resolution of the City Council.
19. "Position" means a group of duties and responsibilities in the service of the City requiring the full-time or part-time employment of one person.
20. "Promotion" means the movement of an employee from one class to another class having a higher maximum base rate of pay.
21. "Provisional appointment" means a temporary appointment, less than 960 hours in a fiscal year, of a non-employee who possesses the minimum qualifications established for a particular class and who has been appointed to a position in that class in the absence of available eligible employees.
22. "Reinstatement" means the restoration without examination of a former employee to a classification in which the employee formerly served.

23. "Suspension" means the temporary separation from service of an employee without pay for disciplinary purposes.
24. "Temporary employee" means an employee who is appointed to a non-position for a limited period of time and is only entitled to benefits as provided by resolution of the City Council.
25. "Transfer" means the movement of an employee from one position to another position in the same class or to another class with the same maximum base rate of pay.

### **RULE III. NONDISCRIMINATION**

- A. **Equal Employment Opportunity.** The City is committed to a policy of equal employment opportunity for applicants and employees. It does not discriminate against qualified applicants or employees with respect to terms or conditions of employment based on race, color, ancestry, sex, gender, sexual orientation, gender identity or expression, age over 40, religious creed, ethnicity, national origin, creed, disability, medical condition, genetic information, marital status, pregnancy, childbirth, or related medical conditions, military or veteran's status, or any other characteristic protected by state or federal law or local ordinance.

Employees who believe they have experienced any form of employment discrimination are encouraged to report this immediately, using the complaint procedure provided in the City's policy prohibiting harassment, discrimination, and retaliation.

- B. **Policy Against Harassment, Discrimination and Retaliation.** City policy prohibits unlawful harassment and discrimination based on an employee's race, color, ancestry, sex, gender, sexual orientation, gender identity or expression, age over 40, religious creed, ethnicity, national origin, creed, disability, medical condition, genetic information, marital status, pregnancy, childbirth, or related medical conditions, military or veteran's status, or any other characteristic protected by state or federal law or local ordinance. In addition, City policy prohibits retaliation because of the employee's opposition to a practice the employee reasonably believes to constitute employment discrimination or harassment or because of the employee's participation in an employment discrimination investigation, proceeding or hearing. The City's full policy against unlawful harassment, discrimination, and retaliation will be set forth in an administrative policy.

- C. **Disabled Applicants and Employees.** The City has a commitment to ensure equal opportunities for disabled applicants and City employees. Every reasonable effort will be made to provide an accessible work environment for such employees and applicants. Employment practices (e.g., hiring, training, testing, transfer, promotion, compensation, benefits, and discharge) will not discriminate unlawfully against disabled applicants or employees. The City

provides employment-related reasonable accommodations to qualified individuals with disabilities within the meaning of the California Fair Employment and Housing Act ("FEHA") and the Americans with Disabilities Act ("ADA").

1. Request for Accommodation. An applicant or employee who desires a reasonable accommodation in order to perform essential job functions should make such a request in writing to the Administrative Services Department. The request must identify: a) the job-related functions at issue; and b) the desired accommodation(s). Reasonable accommodation can include, but is not limited to job restructuring, reassignment to a vacant position for which the employee is qualified, and making facilities accessible.
2. Reasonable Documentation of Disability. Following receipt of the request, the Administrative Services Department may require additional information, such as reasonable documentation of the existence of a disability or additional explanation as to the effect of the disability on the employee's ability to perform his/her essential functions, but will not require disclosure of diagnosis or genetic history.
3. Interactive Process. The City will engage in the interactive process, as defined by the FEHA and ADA, to determine whether an applicant or employee is able to perform the essential functions of his/her position. During this process, the City will examine potential reasonable accommodations that will make it possible for the employee or applicant to so perform. Such interactive process will include a meeting with the employee or applicant, the City, and, if necessary, the employee or applicant's health care provider.
4. Case-by-Case Determination. The City determines, in its sole discretion, whether reasonable accommodations(s) can be made, and the type of reasonable accommodations(s) to provide. The City will not provide an accommodation that would pose an undue hardship upon the City or that is not required by law. The City will inform the employee of any decisions made under this section in writing.
5. Fitness for Duty Leave. While the City is engaged in the interactive process with an employee, the City may require that the employee be placed on a fitness for duty leave in accordance with Rule XI.M.

#### **RULE IV. CLASSIFICATION.**

- A. Preparation of Plan. The Personnel Officer shall ascertain and record the duties, responsibilities, minimum standards, and minimum qualifications of all positions in the City and shall recommend a classification/compensation plan for all positions. The classification/compensation plan need not be contained in only one document, but may be comprised of various documents. The

classification/compensation plan shall consist of classes of positions defined by class specifications, including the title. The classification/compensation plan shall be so developed and maintained that all positions substantially similar with respect to duties, responsibilities, authority, and character of work are included within the same class, and that the same schedules of compensation may be made to apply with equity under similar working conditions to all positions in the same class. The classification/compensation plan will contain the general salary schedule and a general benefits schedule.

- B. **Adoption, Amendment and Revision of Plan.** The classification/compensation plan shall be adopted by and may be amended from time to time by resolution of the City Council. At the time of consideration by the City Council, any interested party may appear and be heard.
- C. **Allocation of Positions.** Following the adoption of the classification/compensation plan, the Personnel Officer shall allocate every position in the employ of the City to one of the classes established by the plan.
- D. **New Positions.** A new position shall not be created and filled until the classification/compensation plan has been amended to provide for such position.
- E. **Reclassification.** Positions, the assigned duties of which have been materially changed by the City so as to necessitate reclassification, whether new or already created, shall be allocated by the Personnel Officer to a more appropriate class. Reclassifications shall not be used for the purpose of avoiding restrictions concerning demotions and promotions, or to effect a change in salary in the absence of a significant change in assigned duties and responsibilities.

## **RULE V. COMPENSATION**

- A. **Salary on Appointment.**
  - 1. **New Employees.** New employees shall be paid at the first step of the salary range for the position to which the employee is appointed except as approved by the City Manager or his/her designee.
  - 2. **Advanced Step Hiring.** The City Manager may appoint a new employee to an advanced step of the pay range if it is determined that qualified applicants cannot be successfully recruited at the first step of the salary range.
  - 3. **Reemployment/Reinstatement.** A person who previously held a position with the City and resigned in good standing may, at the discretion of the City Manager, when re-employed in the same or a comparable position held at separation, be appointed at the same salary rate which was paid at the effective date of the person's termination or the nearest lower applicable step for the range to which the person is appointed.

- B. **Salary Anniversary Dates.** Employees shall have a salary anniversary date on the date of his/her most recent appointment, promotion, demotion, reinstatement or reemployment. The salary anniversary date may be modified by the action of the appointing authority under Rule IX.H.
- C. **Increases Within Salary Range.** Employees will normally become eligible for a merit adjustment in pay after 12 months of service. Increases shall not be automatic, and are based on merit. The adjustment shall be made only if recommended by the applicable Department Head, and, if approved, by the City Manager. The subsequent adjustments are based on performance evaluation, to encourage an employee to perform at his/her highest level, and to recognize increased skill on the job. Employees are normally eligible for these adjustments any time after the completion of 12 months of service. This period may be modified in conjunction with the performance evaluation recommendations and as approved by the City Manager. Unless so modified, a granted merit adjustment will be effective on the employee's salary anniversary date. The City Manager, in his/her sole discretion, may determine that an increase within range will be retroactive in effect to the employee's salary anniversary date or to another appropriate date.
- D. **Salary Upon Promotion.** Except in instances where the granting of a full step increase would result in a salary in excess of the top step of the range, any employee who is promoted to a position in a class with a higher salary range shall be placed on the step in the new higher range which is at least equal to an advancement of a full step over the step he/she held in his or her former range. If the maximum of the range would be exceeded by such advancement, the employee shall receive the top step of the range. An employee thus promoted is assigned to a new salary anniversary date effective on the date of promotion.
- E. **Salary Upon Transfer.** Any employee who is transferred from one position to another position in the same class, or to another position in a class having the same salary range, shall be compensated at the same step of the salary range as he/she previously received and his/her salary anniversary date shall not change.
- F. **Salary on Change in Range Assignment.** Whenever a class is reassigned to either a higher or lower salary range by the Council, the salary of each incumbent in such class on the date the reassignment is effective shall be adjusted to the salary position in the new range that corresponds to the salary he/she was receiving in the former range and he/she shall retain the same salary anniversary date.
- G. **Salary on Reallocation of Position.** If the position is reallocated to a class having the same salary range, the salary and the salary anniversary date of the incumbent shall not change. If the position is reallocated to a class which has a higher salary range, the City Manager shall adjust the salary of the incumbent employee to fit the higher salary range which is at least as much as he/she was



receiving in the former range and he/she shall retain the same salary anniversary date. If the position is reallocated to a class with a lower salary range, and the employee's salary exceeds the top step of the class to which his/her position is reallocated, his/her salary shall not change until it is exceeded by the top step of the class. The employee's salary anniversary date shall not change.

- H. **Salary on Demotion**. Any employee who is demoted to a position in a class with a lower salary range shall have his/her salary adjusted by one the following three methods:
1. If a disciplinary demotion, the employee's salary may be reduced. A new salary anniversary date shall be established on the basis of the demotion.
  2. If a non-disciplinary demotion, the employee's salary may be reduced. He/she shall retain his/her salary anniversary date.
  3. In the discretion of the Personnel Officer, a demoted employee's salary may be y-rated. A y-rated salary is one that is paid above the maximum established salary range for the incumbent's classification. An employee whose salary is y-rated will retain his/her current rate of pay until such time that the class has a higher maximum salary rate.
- I. **Acting Pay**. An employee who is required on the basis of an acting appointment to serve in a class with a higher salary range than that of the class in which he/she is normally assigned, shall receive the entrance salary rate of the higher salary range or one rate higher than the rate he/she normally receives, whichever is greater, provided the employee shall perform all the duties and assume all the responsibilities of the higher class, and only after the employee has served for 10 consecutive working days in the higher classification.
- J. **Special Salary Adjustments**. Notwithstanding anything in these personnel rules to the contrary, in order to correct gross inequities, or to reward outstanding achievement and performance, the City Manager may adjust the salary rate of an incumbent of a particular position to any step within the salary range for the class to which the position is allocated.
- K. **Pay Periods**. The salaries and wages of all employees shall be paid bi-weekly. In the event a payday falls on one of the holidays listed in these personnel rules, or on a Saturday or Sunday, the immediately previous working day shall become the payday.
- L. **Severance Upon Termination**. Upon termination without cause of employees in the executive classification, as defined in the Benefits Ordinance, or Department Heads, such employees shall be entitled to payments as follows:
1. **Amount of Severance Pay**.

- a. Employees in the executive classification, as defined in the Benefits Ordinance, shall receive a payment equivalent to 180 days of base salary.
- b. Department Heads shall receive a payment equivalent to 90 days of base salary.

However, in no event shall the total cash value of the Severance Pay exceed the value of the employee's monthly salary multiplied by eighteen (18), or multiplied by the month's remaining in employee's term, whichever is less.

2. Reimbursement Upon Conviction of Abuse of Office. In the event any employee is convicted of any crime involving an abuse of the employee's office or position, as defined by California Government Code Section 53243.4, the employee is not entitled to receive Severance Pay, and must reimburse the City for any Severance Pay received.
3. Effect of Termination for Cause. If an executive employee or a Department Head is terminated for cause, he/she shall not be entitled to receive severance pay.

## **RULE VI. APPLICATIONS, RECRUITMENT AND EXAMINATIONS**

- A. **Vacancies.** Except for the City Manager, Department Heads, Assistant City Manager, Deputy City Manager, and/or Assistant to the City Manager positions, vacant positions may be filled only by selection from an eligibility list, by acting appointment, by transfer, by reinstatement, or by demotion. Selection of all other employees is made by the Department Head for the position, subject to approval by the City Manager.

The City Council shall select the City Manager. The City Manager shall select the Department Heads, Assistant City Manager, Deputy City Manager and Assistant to the City Manager. These positions may be filled by the method selected by the City Council or the City Manager to obtain the best candidate for the position. The provisions of this Rule are inapplicable to the filling of vacancies in those positions.

- B. **Announcement of Vacancies/Acceptance of Applications.** When a position becomes vacant, the applicable Department Head shall notify the Personnel Officer. All positions shall be publicized by such methods as the Personnel Officer deems appropriate. The announcements shall specify the title and pay range of the class; the nature of the work to be performed; the experience and education requirements; the knowledge, skills, and abilities desirable for the performance of the work; how to apply; the application deadline date; that a post-offer, pre-employment physical examination is required, which may include a drug test; that a criminal background check is required through the submission of fingerprints; and other relevant information. Applications will also be available in

the office of the Personnel Officer. Applications will be collected by the Personnel Officer until the closing date for acceptance of applications.

C. **Disqualification of Applicants.** The Personnel Officer may reject any application which indicates on its face that the applicant does not possess the minimum qualifications required for the position, or because the applicant has failed to timely submit the application, fully complete the application, or submit all required materials.

D. **Ineligibility for Employment.** Further examination or consideration for employment of any applicant may be discontinued, and any employment of any person may be terminated, when any of the following has been determined to the satisfaction of the Personnel Officer:

1. Who does not meet the minimum qualifications established for the class or position to which they seek appointment;
2. Who has made a false statement, misrepresentation, or omission of material fact, or actual or attempted deception, fraud or misconduct in connection with his/her application;
3. Who has failed to submit a complete application within the prescribed time limit;
4. Who has directly or indirectly obtained information regarding examinations to which applicants are not entitled;
5. Who has been convicted, including pleas of guilty and nolo contendere, of any felony or misdemeanor, which was of such a nature as to reflect adversely and substantially on the applicant's ability to perform the duties of the position. The City Manager may disregard such convictions of felonies or misdemeanors if it is found and determined by the City Manager that mitigating circumstances exist. In making such determination, the City Manager may consider the classification, including sensitivity, to which the person is applying or being certified and whether the classification is unrelated to the conviction; the nature and seriousness of the offense; the circumstances surrounding the offense; the length of time elapsed since the conviction; the age of the person at the time of conviction; the presence or absence of rehabilitation or efforts at rehabilitation; and/or contributing social or environmental conditions.
6. Who has otherwise violated provisions of these Personnel Rules.

In addition, applicants with the least desirable background or qualifications among a large number of applicants may be denied further participation in the selection process through an evaluation of their qualifications, thus providing a reasonable number of the best qualified candidates for consideration.

Applicants disqualified from further participation in the selection process will be promptly notified to permit submission of additional information provided that the time limit for receiving applications has not expired. Notice will be mailed to the last known address and/or will be emailed to the email address provided by the applicant on his/her application; it will be the applicant's responsibility to keep his/her current physical address and email address on file. Whenever an application is rejected, the Personnel Officer will mail and/or email notice of such rejection to the applicant.

E. **Selection Process.**

The selection process shall be impartial and relate to those subjects which, in the opinion of the Personnel Officer, fairly measure the relative capacities of the applicants to execute the duties and responsibilities of the class to which they seek to be appointed. The selection process may include but is not necessarily limited to achievement, aptitude, and other written tests, personal interview, performance tests, physical agility tests, evaluation of daily work performance, work samples, criminal background check (after the City has determined that the applicant meets the minimum qualifications of the position), medical tests (possibly including a drug test), successful completion of prescribed training, or other selection techniques as determined by the Personnel Officer. The selection process shall be designed to provide equal opportunity to all candidates by being based on an analysis of the essential requirements of the class, covering only factors related to such requirements. The City also retains the right to conduct a thorough background check of each applicant.

The Personnel Officer may enter into a contract with any competent agency or individual for the preparing and/or administering portions of the selection process. If the Personnel Officer does not contract these duties to an agency or individual, then the Personnel Officer shall ensure that such duties are performed.

F. **Creation of Eligibility List.** As soon as possible after the completion of a recruitment, the Personnel Officer shall prepare and maintain an eligibility list consisting of the names of candidates who qualified as finalists. Eligibility lists shall remain in effect for up to 12 months unless the Personnel Officer abolishes the eligibility list after determining that the abolition of the list is in the best interest of the City. The name of any person appearing on an eligibility list shall be removed by the Personnel Officer if the person requests in writing that his/her name be removed or if the person fails to respond to a notice of certification mailed to the last designated physical address or emailed to the last designated email address. Persons on eligibility lists as a result of an internal recruitment who leave the service of the City for any reason shall automatically be dropped from such lists.

G. **Physician's Examination.** All job applicants are required to submit to a physician's examination at the City's expense upon being made a conditional

offer of employment. As set forth in more detail in the City's Drug-Free Workplace Policy, the physician's examination shall include a drug and alcohol test for positions that are (1) safety-sensitive; or (2) involve a position of influence over children. When a drug and alcohol test is required, applicants shall be made aware of that in the announcement published under Rule VI.B. No job commitment shall be made until a negative drug screen result is obtained and a physician has certified that the applicant is medically qualified to perform the essential functions of the position. When the applicant reports to the medical facility for the scheduled examination, personal identification shall be provided to the facility in the form of a photograph and verifiable signature (for example, a driver's license). All test results will be kept confidential. The applicant will be told whether the tests were passed or failed, but only the Personnel Officer and his or her assistant will have access to the test results. If required, the drug/alcohol examination shall be administered in accordance with the City's Drug-Free Workplace Policy.

## **RULE VII. APPOINTMENTS**

- A. **Appointment of New Employee.** The hire date of a new employee shall be that of the first day actually worked.
- B. **Provisional Appointments.** It shall be the policy of the City to require all Department Heads and other appointing authorities, whenever possible to notify the Personnel Officer, of impending or anticipated vacancies in their departments sufficient in advance so as to allow for the establishment of an appropriate eligibility list. However, when the demands of the services are such that it is not practicable to give such notification and if it is not practicable to delay appointment until a new eligibility list can be certified, the appointing authority may make a provisional appointment to the position, in accordance with the following:
1. As soon as practicable, but not longer than six months after a provisional appointment has been made, the Personnel Officer may cause an examination to be prepared, and all positions filled provisionally shall be filled by an appointment from an eligibility list.
  2. A person appointed to a position on a provisional basis shall not be entitled to credit for the time served under the provisional appointment toward if the employee is awarded the position on a non-provisional basis.
  3. No special credit shall be allowed in any examination or the establishment of any eligibility lists for services rendered under a provisional appointment.
  4. Except for retired annuitants, no person shall be employed by the City under provisional appointment for a total of more than six months in any

fiscal year except that the Personnel Officer may extend the period of any provisional appointment for not more than 90 days by any one action; provided; however, no provisional appointment shall cause any person to work more than 960 hours (if paid on an hourly basis) or 125 days (if paid on a per diem basis) in a fiscal year.

5. A person who has retired from a CalPERS employer (“retired annuitant”) may only be appointed to a provisional appointment when all of the following conditions are met:
  - a. The City can show the retired annuitant has previous experience and the skill set needed to perform the work required.
  - b. The appointment is made to fill a vacant position during the recruitment to permanently fill the vacancy, or during an emergency to prevent stoppage of public service. A recruitment to permanently fill the vacant position must be open before the retired annuitant is appointed.
  - c. Retired annuitants cannot begin employment before the 181st day after their retirement date, unless the City certifies the nature of the employment and that the appointment is necessary to fill a critically needed position before 180 days has passed, and the City Council approves the appointment in a public meeting. The appointment may not be placed on a consent calendar.
  - d. If the retired annuitant is under the normal retirement age, he or she must have a bona fide separation in service. Further, the retired annuitant must not have received unemployment insurance payments for retired annuitant work with any public employer within the 12 months prior to the date of the provisional appointment, and he or she must certify to this in writing to the City.
  - e. A retired annuitant may only be appointed once to the position. Provisional appointments of retirees must specify a beginning date and an end date for the appointment, and the appointment term must not result in the retired annuitant working more than a combined 960 hours in a fiscal year for all CalPERS employers. If a retired annuitant works more the 960 hours in a fiscal year, he or she must be reinstated. The Personnel Officer may not extend any provisional appointment of a retired annuitant, and must ensure the retired annuitant does not exceed the 960 hours limit.
  - f. The rate of pay for the retired annuitant must fall within the monthly rate of pay range for the vacant position, and he or she may not receive any other benefit, incentive, compensation in lieu of benefits, or other form of compensation in addition to this base rate.

The City ensures the retiree is enrolled as a retired annuitant with CalPERS and that the pay rate and hours worked by the retired annuitant are reported to CalPERS.

- C. **Acting Appointments to a Higher Class**. An acting appointment may be made to a higher class or position occupied by a person on temporary leave or disability. Such acting appointment shall not exceed six months. The Personnel Officer may extend acting appointments for successive 30-day periods. Acting appointments shall be made in accordance with the provisional appointments section of these personnel rules. Upon the return of the incumbent from leave or disability, the acting appointment shall be immediately terminated, and the appointee shall resume regular duties, compensation and privileges as if he/she had continued his/her duties in his/her regular classification.
  
- D. **Reinstatement**. With the approval of the Personnel Officer, an employee who has completed at least 12 months of service and who has resigned in good standing may be reinstated within one year of the effective date of resignation to a vacant position in the same or comparable class. For purposes of reinstatement, "good standing" shall mean that the employee was not terminated for cause under these personnel rules, did not resign in lieu of termination, provided the required amount of notice of resignation, and was evaluated at least as "fully meets job standards" or an equivalent rating on his/her last performance evaluation. No credit for former employment shall be granted in computing salary, vacation, sick leave, retirement benefits, or other benefits except on the specific written direction of the Personnel Officer at the time of reinstatement. Such reinstatement action may, at the discretion of the Personnel Officer, take precedence over any eligibility list except a reemployment list. An individual requesting reinstatement is required to successfully complete a background examination and physician's examination, as set forth in Rule VI.
  
- E. **Transfer**. The Personnel Officer may transfer an employee from one position to another in the same class or a comparable class at the same salary level. While the Personnel Officer retains the right to order the transfer, consideration will be given to the affected employee's and the Department Heads' wishes.

## **RULE VIII. NEPOTISM AND CONSENSUAL ROMANTIC RELATIONSHIPS BETWEEN EMPLOYEES**

- A. **Nepotism**.
  - 1. **Definitions**.
    - a. **Applicant**. A person who applies for a position at the City and is not a Current Employee.
    - b. **Change of Status**. A change in the legal status or personnel status of one or more Current Employees.

- i. Changes in legal status include but are not limited to marriage, divorce, separation, or any such change through which a Current Employee becomes a Family Member or ceases to be a Family Member of another Current Employee.
  - ii. Changes in personnel status include but are not limited to promotion, demotion, transfer, resignation, retirement or termination of a Current Employee who is a Family Member of another Current Employee.
- c. Current Employee. A person who is presently a City employee, or an elected or appointed City official.
- d. Direct Supervision. One or more of the following roles, undertaken on a regular, acting, overtime, or other basis shall constitute Direct Supervision:
  - i. Occupying a position in an employee's direct line of supervision; or
  - ii. Functional supervision, such as a lead worker, crew leader, or shift supervisor; or
  - iii. Participating in personnel actions including, but not limited to, appointment, transfer, promotion, demotion, layoff, suspension, termination, assignments, approval of merit increases, evaluations, and grievance adjustments.
- e. Family Member. A spouse, domestic partner, parent, parent-in-law, step-parent, legal guardian, sister, step-sister, sister-in-law, brother, step-brother, brother-in-law, child, step-child, legal ward, daughter-in-law, son-in-law, grandchild, or grandparent.
- f. Prohibited Conduct. Conduct by Family Members including, but not limited to, one or more of the following:
  - i. Participation directly or indirectly in the recruitment or selection process for a position for which a Family Member is an Applicant.
  - ii. Direct Supervision of a Family Member that does not comply with limitations set forth in this Section;
  - iii. Conduct by one or more Family Members that has an adverse effect on supervision, safety, security or morale.



2. Department Head Authority. Department Heads are authorized to make initial determinations under this Rule. Should the Department Head be related to the employee/applicant in question, the City Manager shall appoint another Department Head to execute the responsibilities under this Rule.
3. Applicants for Employment.
  - a. No qualified Applicant may be denied the right to file an application for employment and compete in the examination process. However, consistent with this Section, the City may reasonably regulate, condition, or prohibit the employment of an Applicant for a full-time position.
  - b. Disclosure of Relationship. Each Applicant is required to disclose the identity of any Family Member who is a Current Employee.
  - c. Review of Department Head. For each Applicant who has a Family Member who is a Current Employee, the Department Head shall assess whether any of the following circumstances exist:
    - i. Business reasons of supervision, safety, security or morale warrant the City's refusal to place the Applicant under Direct Supervision by the Family Member; or
    - ii. Business reasons of supervision, security, or morale that involve potential conflicts of interest or other hazards that are greater for Family Members than for other employees, which warrant the City's refusal to permit employment of Family Members in the same department, division, or facility.
  - d. Decision of the Department Head. If the Department Head determines that either of the above circumstances exist, the Department Head shall exercise his or her discretion to either reject the Applicant or consider the Applicant for employment in a position that does not present either of the above circumstances.
    - i. Following examination, if the Applicant is successfully certified as eligible pursuant to Rule VI, he or she may be employed in a position for which the Department Head has determined that neither circumstance exists pursuant to Rule VII.A.3.c.
    - ii. When an eligible Applicant is refused appointment by virtue of this Rule VI, his or her name shall remain on the eligibility list for openings in the same classification. For each opening, the Department Head shall make a determination consistent with Rule VII.A.3.c.

4. Guidelines for Current Employees.

- a. Employees shall report a Change of Status to the Department Head within a reasonable time after the effective date of the Change of Status. Wherever feasible, Employees shall report a Change of Status in advance of the effective date.
- b. Within thirty days from receipt of notice, the Department Head shall undertake a case-by-case consideration and individualized assessment of the particular work situation to determine whether the Change of Status has the potential for creating an adverse impact on supervision, safety, security, or morale.
  - i. The Department Head shall make a good faith effort to regulate, transfer, condition or assign duties in such a way as to minimize potential problems of supervision, safety, security, or morale.
  - ii. Notwithstanding the above provisions, the City retains the right to exercise its discretion to determine that the potential for creating an adverse impact on supervision, safety, security, or morale cannot be sufficiently minimized and to take further action as set forth in Rule VII.A.5.b.

5. Monitoring by Department Head.

- a. Following a Change of Status or new hire of a Family Member, affected Department Heads shall reasonably monitor and regulate both Family Members' conduct and performance for a period of one year from the date of the Department Head's determination. The Department Head shall document these actions. Successive Department Heads may re-visit such a determination at their discretion.
- b. If the Department Head determines, subject to any applicable requirements of due process, that an employee has engaged in Prohibited Conduct, the Department Head shall reevaluate his/her prior determination, and may take one or more of the following additional measures:
  - i. Transfer one of the Family Members to a similar position that would not be in violation of this policy. The transfer will be granted provided the Family Member qualifies and there is an opening to be filled. There can be no guarantee that the new position will be within the same classification or at the same salary level.

- ii. If the situation cannot be resolved by transfer, one of the Family Members must separate from City employment. If one of the employees does not voluntarily resign, the employee with primary responsibility for the Prohibited Conduct will be discharged.
  - c. Department Heads who receive complaints from other employees that one or more Family Members has engaged in Prohibited Conduct shall respond in accordance with existing complaint and disciplinary procedures, where applicable.
  - d. Where situations exist prior to the effective date of this Section that may be in conflict with this Section, every effort shall be made to reasonably address the situation so as to avoid any future conflict.
6. Appeal of Department Head Determination. Current Employees and Applicants affected by the application of this Section, may appeal the action of the Department Head to the City Manager within ten days of the action. The City Manager shall hear the individual's concerns and issue a written decision within 30 days of the receipt of the individual's appeal. The decision of the City Manager is final, and no other appeal may be had unless the employee is entitled to further administrative appeal under other provisions of these Personnel Rules.
7. Employee Complaints. Employees who believe that they have been adversely affected by Prohibited Conduct by one or more Family Member should submit complaints to a Department Head or to the Personnel Officer.
8. Savings Clause. Should any provision of this Section, or any application thereof, be unlawful by virtue of any federal, state, or local laws and regulations, or by court decision, such provision shall be effective and implemented only to the extent permitted by such law, regulation or court decision, but in all other aspects, the provisions of this Section shall continue in full force and effect.

**B. Consensual Romantic Relationships Between Employees.**

1. General. Consensual romantic or sexual relationships between City employees can lead to misunderstandings, complaints of favoritism, adverse effects on employee morale, and possible claims of sexual harassment during or after termination of the relationship. As a result, such relationships present existing or potential conflicts that adversely affect efficient operation of the City. Relationships that present an actual conflict under this Section are therefore prohibited.
2. Application. This section shall apply to all City employees, regardless of gender or sexual orientation, who have a romantic or sexual relationship

with another City employee. The provisions of Section A of this Rule regarding nepotism shall govern employees who marry or become domestic partners with another City employee.

3. Definition of Conflict. For purposes of this section, a conflict exists if business issues of supervision, safety, security, and/or morale would be impacted by a romantic or sexual relationship between two employees.
4. Supervisor's Duty to Report. If a romantic or sexual relationship exists between a Supervisor and another employee (including another Supervisor), the Supervisor shall promptly disclose the relationship to the Personnel Officer and request a determination as to whether the relationship presents a conflict. The disclosure must identify the names and positions of both employees. A Supervisor's failure to comply with this section shall be grounds for discipline up to and including termination.
5. Determination by City Manager. Within five working days, the City Manager shall issue a written determination as to whether the relationship presents a conflict, and is thereby prohibited. The City Manager shall have exclusive discretion in making the determination.
6. Resolution of Conflicts. Subject to limitations imposed by the Municipal Code and applicable provisions of these Personnel Rules, the City Manager will attempt in good faith to work with the Supervisor and the other employee to consider options to eliminate the conflict, including removing the Supervisory authority that created the conflict, reassignment, transfer or voluntary demotion of a Supervisory employee, or where the City Manager determines that modification of a Supervisor's assignment is not feasible, reassignment, transfer or voluntary demotion of a non-Supervisory employee. The City Manager retains discretion to determine that the conflict may be resolved via voluntary resignation or termination only.
7. Prohibited On-Duty Conduct. All City employees are prohibited from engaging in intimate, physical, or other conduct in furtherance of a romantic or sexual relationship with another City employee at work locations during work hours. Moreover, upon termination of a sexual or romantic relationship with another City employee, employees are prohibited from engaging in behavior that adversely affects the working conditions of any City employee. In general, all employees are expected to observe appropriate standards of workplace conduct in their interactions with other City employees.
8. Complaints. Employees who believe that they have been adversely affected by romantic or sexual relationships between City employees should follow the complaint procedures provided under the City's Policy

Against Harassment, Discrimination, and Retaliation. The complaint procedures are available to all employees regardless of their past or present participation in a romantic or sexual relationship with another City employee.

#### **RULE IX. PERFORMANCE EVALUATIONS.**

- A. **Policy**. It is the policy of the City that regular evaluations be made as to the efficiency, competency, conduct and merit of its employees. To this end, it is the responsibility of the City Manager, the Department Heads and their subordinate supervisors that these evaluations be made. It is the responsibility of the Personnel Officer to provide and prescribe the forms and procedures to be used in such evaluations of performance and to assist in the training of supervisory personnel so that the program of performance evaluation will be carried on in a sound and effective manner.
- B. **Authority to Make Evaluations**. The City Manager or his/her designee shall have the authority to prepare performance evaluations. He/she may, however, delegate such authority to such subordinate supervisory employees who are most familiar with work of the employees to be evaluated, provided that he/she shall review and approve all performance evaluations of personnel under his/her jurisdiction.
- C. **Time for Performance Evaluation**. An annual performance evaluation may be prepared and received before the employee's salary anniversary date, and shall evaluate the employee's performance in the last year. If the employee receives a rating of (or equivalent to) "improvement needed" or "unsatisfactory" in his/her annual performance evaluation, his/her supervisor shall be responsible for conducting an additional performance evaluation three months from receiving such rating and again three months subsequent to that. In addition, the employee may be given a performance evaluation at any other time during the year at the discretion of the appointing authority.
- D. **Postponement of Performance Evaluation**. Unless otherwise required by law, the use of any leave of absence in excess of 30 consecutive days shall cause the date of the employee's performance evaluation to be extended by the same period of time that the employee was absent.
- E. **Review with the Department Head**. A performance evaluation must be submitted for review by, and be approved by, the Department Head before the performance evaluation is provided to or discussed with an employee.
- F. **Review with Employee**. Each performance evaluation shall be presented by the supervisor who prepared it and discussed with the employee. The employee shall sign the evaluation to acknowledge its contents. Such signature shall not necessarily mean the employee endorses the content of the evaluation. Employees may not appeal or grieve the contents of a performance evaluation or

the rating(s) received by the employee. Employees who disagree with the contents of their performance evaluation shall have the right to attach a written statement explaining the basis of their disagreement to the performance evaluation.

G. **Retention of Performance Evaluation.** After review and approval of the appointing authority, the performance evaluation, as well as any written statement provided by the employee, shall be made a part of the employee's personnel file.

H. **Effects of "Improvement Needed" and "Unsatisfactory" Ratings.**

1. Any employee who receives an "unsatisfactory" or "improvement needed" rating will not be eligible to be appointed off of any eligibility list until a satisfactory rating is established.
2. Any employee who receives an "unsatisfactory" or "improvement needed" rating will not receive any merit salary increase during the period following the report, except as provided in Rule IX.H.3.
3. If an employee who has been denied a merit salary increase improves his/her performance to such an extent that the appointing authority believes a merit salary increase is now justified, the appointing authority shall indicate the improvement on a report of performance form and may specifically award a merit salary increase. Additionally, in awarding the merit salary increase under this subsection, the appointing authority may change the merit salary increase anniversary date to the date of the award of the merit salary increase or may permit the anniversary date to remain the same. Any merit salary increase awarded under this subsection shall not be made retroactive.

## **RULE X. WORKWEEK, HOURS OF WORK AND OVERTIME.**

A. **FLSA Classification.** The Personnel Officer shall designate those positions which are exempted from the provisions of the Fair Labor Standards Act ("FLSA") based on an assessment of the duties of each position. This designation will be expressed in the job description for the position.

B. **Work Schedules and Workweek.**

1. The City Work Schedules include a standard 5/8 schedule and an alternative 4/10 schedule.
  - a. **Alternative 4/10 Workweek and Work Schedule.**
    - i. The City has adopted a 4/10 work schedule for most employees, which consists of ten hours per day, four days per week.

- ii. All City Hall employees are assigned to work a 4/10 work schedule. Employees assigned to work a 4/10 work schedule will work Monday through Thursday, 7:00 a.m. to 6:00 p.m. with Fridays off. At the direction of the City Manager, some employees may be required to work a different schedule due to the requirements of their job classifications or department responsibilities. Any such variation to the standard 4/10 work schedule must be memorialized in writing.
- iii. The workweek for employees assigned to a 4/10 work schedule shall be seven consecutive days, 12:00 a.m. on Saturday and ending at 11:59 p.m. on the following Friday. Time worked by non-exempt employees in excess of 40 hours in a workweek shall constitute overtime.

b. Standard Workweek and Work Schedule.

- i. The standard 5/8 work schedule consists of eight hours per day, five days per week.
- ii. All City cemetery employees are assigned to work a standard work schedule. Employees assigned to work a standard work schedule will work Monday through Friday, 7:00 a.m. to 3:30 p.m. At the direction of the City Manager, some employees may be required to work a different schedule due to the requirements of their job classifications or department responsibilities. Any such variation to the standard work schedule must be memorialized in writing.
- iii. The workweek for employees on the standard work schedule shall be seven consecutive 24-hour periods, starting at 12:00 a.m. on Saturday and ending at 11:59 p.m. on the following Friday. Time worked by non-exempt employees in excess of 40 hours in a workweek shall constitute overtime.

C. **Daily Hours of Work/Shifts.** Daily hours of work or shifts for employees within departments shall be assigned by Department Heads as required to meet the operational requirements of such departments. The City reserves the right to regulate and/or change the designation of the specific hours or days to be worked by any employee, and no such change in the scheduling of days or hours worked shall be deemed to constitute overtime, provided the total number of hours and days does not exceed those specified as constituting the standard work year, work period, work week and workday hereunder.

D. **Changes in Work Schedules.** The City reserves the right to establish and modify work schedules in order to meet the varying needs of the different City

departments. Except in the case of an emergency, Department Heads must provide employees with at least 30 days' notice before changing an employee's work schedule. If the needs of the City require that a position be assigned to work a different work schedule or have a different workweek than the two set forth in this Section, the City Manager, in consultation with the Department Head, may designate the work schedule and workweek for employees in that position in writing. Any additional alternative workweeks shall be designated by administrative policy adopted by the City Manager.

E. **Meal Periods.** Non-exempt employees are entitled to unpaid meal periods during which they shall be entirely relieved of responsibilities and restrictions. Such time shall not constitute hours worked, and no monetary compensation, or any other compensation in addition to the employee's basic pay for overtime, shall be given to any employee for or on account of any of his/her meal periods.

1. Non-exempt employees shall be entitled to a 60-minute unpaid meal period during each work shift which exceeds 8 hours.
2. Supervisors shall schedule meal periods to ensure appropriate coverage.
3. Employees shall take reasonable measures wherever feasible to avoid the need for work to be performed during meal periods. Where required, time spent on such work shall be kept to a minimum, and may only occur with the prior written authorization of a Department Head. Non-exempt employees who work during their meal periods shall be paid for time worked.

F. **Rest Periods.** Except where unusual operational demands prevent a rest break, non-exempt employees are entitled to two 15-minute paid rest periods during each workday. Rest periods shall not be combined or added to employees' meal periods. Rest periods shall also not be added to the beginning or end of an employee's shift.

G. **Overtime.** Non-exempt employees shall be entitled to overtime at the rate of one and one-half his/her regular hourly rate of pay for each hour worked in excess of 40 hours in any one workweek. Employees are not entitled to compensatory time off in lieu of overtime. Exempt employees are not eligible to receive overtime compensation.

1. **Calculation of Hours Worked.** For the purposes of overtime compensation, "hours worked" shall only include those periods of time that the employee is required to be on duty or to be on the City's premises or at a prescribed workplace, and all time during which an employee is suffered or permitted to work. As such, paid time off, including for example, time spent on a paid leave of absence, sick leave, holidays and vacation, shall not be included in the calculation of hours worked.



2. Approval of Overtime. It is the policy of the City to avoid the necessity for overtime work whenever possible. Employees shall take reasonable measures wherever feasible to avoid the need for work to be performed outside of their regularly scheduled shifts.

Employees shall not perform work outside of their regularly scheduled shifts or in excess of 40 hours in a workweek unless requested to do so by their Department Head or with advance written authorization from their Department Head. This requirement applies to, but is not limited to:

- a. Work performed before the start of the shift;
- b. Work performed during meal periods;
- c. Work performed after the end of the shift; and
- d. Other work performed "off the clock" including work performed at home.

Time spent on such work outside an employee's regularly scheduled shift shall be kept to a minimum. Department Heads are required to notify the Finance Department of any approved overtime at the end of the workday in which overtime is worked.

## **RULE XI. LEAVES OF ABSENCE.**

### **A. Effect of Leave of Absence.**

1. Effect of Leave of Absence on Employment Benefits.

- a. Fully Paid Leave. Unless otherwise required by law, an employee on a leave of absence who continues to receive full compensation through the use of his/her accrued leave banks will continue to receive full employment benefits. Such employment benefits may include, but are not limited to, the accrual of paid leaves, accrual of seniority, and cafeteria contributions which remain at the rate the employee would receive if he/she was working his/her normal work schedule.
- b. Partially Paid Leave. Unless otherwise required by law, an employee on a paid leave of absence who is receiving less than full compensation from the City through the use of his/her accrued paid leaves shall receive a prorated share of his/her employment benefits, including, but not limited to, the accrual of paid leaves, accrual of seniority, cafeteria contributions, or supplemental pay.
- c. Unpaid Leave. Unless otherwise required by law, an employee on an unpaid leave of absence shall not accrue any employment

benefits, including, but not limited to, the accrual of paid leaves, accrual of seniority, cafeteria contributions, and supplemental pay.

2. Effect of Leave on Performance Evaluations and Merit Increases. Unless otherwise required by law, the use of any leave of absence in excess of 30 consecutive days shall cause the date of the employee's performance evaluation, and merit increase, if relevant, to be extended by the same period of time that the employee was absent.

B. **Unauthorized Absences.** Any employee absent from his/her job for more than three consecutive working days without prior permission of the Department Head may be considered to have voluntarily resigned from his/her employment with the City. Any unauthorized absence may be cause for disciplinary action as provided in these personnel rules.

C. **Holidays.**

1. Holidays Observed. The following days shall be recognized and observed as paid holidays:
  - a. New Year's Day (January 1)
  - b. Martin Luther King Jr. Day
  - c. Presidents' Day
  - d. Memorial Day
  - e. Independence Day (July 4)
  - f. Labor Day
  - g. Veterans Day (November 11)
  - h. Thanksgiving Day
  - i. Day after Thanksgiving Day
  - j. Christmas Eve (December 24)
  - k. Christmas Day (December 25)

In December of each year, the City Manager will send a list of dates that holidays will be observed for the following calendar year. When a holiday falls on day that the City (or a Department in the City) is regularly closed (such as a Saturday), the City Manager will designate an alternative date that will be observed as the holiday. Employees on different schedules may be provided with different days on which to observe the holiday.

2. Amount of Holiday Pay. Employees shall receive one day's pay for each of the holidays listed above for the number of hours they would have been regularly scheduled to work.
3. Floating Holiday. Employees shall receive one floating holiday on May 12<sup>th</sup> of each year. The City will remain open on May 12<sup>th</sup> during normal business hours and will not be observed as a holiday. Employees may elect to use their floating holiday at any time during the fiscal year.

Floating holidays may be scheduled upon approval of the City Manager or his/her designee.

- a. Amount of Floating Holiday. An employee assigned to a 4/10 schedule shall receive ten hours of floating holiday time. An employee assigned to a 5/8 schedule shall receive eight hours of floating holiday time.
  - b. Compensation for Unused Floating Holidays. Any unused floating holidays will be cashed out on June 30<sup>th</sup> of each year at the employee's then-current rate of pay.
4. Work Performed on a Holiday. An employee who is scheduled and required to work on a date that the City has observed as a holiday shall be compensated at regular salary for all time actually worked on the date the holiday is observed. In addition, the employee shall receive one floating holiday.
- a. Amount of Floating Holiday. An employee assigned to a 4/10 schedule shall receive ten hours of floating holiday time. An employee assigned to a 5/8 schedule shall receive eight hours of floating holiday time.
  - b. Compensation for Unused Floating Holidays. Any unused floating holidays will be cashed out on June 30<sup>th</sup> of each year at the employee's then-current rate of pay.

**D. Vacation.**

1. Full-time employees in all classifications shall accrue vacation, on a daily basis, according to the following schedule:
  - a. From the date of hire through five years of service: 80 hours per year.
  - b. Beginning the sixth year through 10 years of service: 120 hours per year.
  - c. Beginning the 11th year of employment: 160 hours per year. Vacation accrues on a pro rata basis during each pay period.
2. The maximum number of vacation days that may be accumulated by an employee is 320 hours. Once an employee reaches the maximum accumulation, he/she shall cease vacation accrual until his/her total number of vacation hours falls below the maximum allowable.
3. A maximum of 80 hours of vacation per calendar year may be converted to compensation and shall be paid at the employee's rate of pay at the

time of the conversion with a balance of 40 hours payable up to twice a year, per the budgetary schedule.

4. At termination of employment for any reason, the City shall compensate the employee for the employee's accumulated, but unused, vacation time at the employee's base rate of pay at the time of termination.
5. If a holiday falls on a work day during an employee's vacation period, that day shall be considered as a paid holiday and not vacation time.
6. Vacations may be scheduled at any time during the year upon approval of the City Manager or his/her designee.
7. Part-time employees shall accrue vacation leave on a pro rata basis based on the number of hours they are regularly scheduled to work.

**E. Sick Leave.**

1. Applicability. This Section applies to full-time employees. Sick leave for part-time employees is set forth in a separate policy.
2. Definitions.
  - a. Family Member. Family Member shall include any of the following: a biological, adopted, or foster child, stepchild, legal ward, a child to whom the employee stands in loco parentis, or a child of a domestic partner, regardless of the child's age or dependency status; a biological, adoptive, or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child; a spouse; a State of California registered domestic partner; a grandparent; a grandchild; a sibling; and a father-in-law, mother-in-law, sister-in-law, brother-in-law, or any other person who is a legal dependent of the employee. Exceptions to this definition shall be reviewed and possibly approved by the City Manager.
3. Sick Leave Accrual. Employees shall earn eight (8) hours of Sick Leave per month of full-time service, unless otherwise required by law. Employees shall be compensated for using Sick Leave at their regular rate of pay for the workweek in which the employee uses Sick Leave, whether or not the employee actually works overtime in that workweek, on the payday for the next regular payroll period after the Sick Leave was taken.
4. Carryover and Cap on Accrued Sick Leave. Unused Sick Leave shall be carried over from calendar year to calendar year with a maximum Sick Leave bank of 320 hours. Once an employee's Sick Leave bank reaches

maximum accrual, the employee shall cease Sick Leave accrual until the total number of Sick Leave hours falls below the maximum allowable.

5. Permitted Uses of Sick Leave. Upon the verbal or written request of an employee, the City shall permit eligible employees to use earned Sick Leave for the following purposes:
  - a. Diagnosis, care, or treatment of an existing health condition of, or preventative care for, an employee or an employee's family member.
  - b. For employees who are victims of domestic violence, sexual assault, or stalking, taking time off to obtain or attempt to obtain any relief, including, but not limited to, a temporary restraining order, restraining order, or other injunctive relief, to help ensure the health, safety, or welfare of the victim or his or her child.
  - c. For employees who are victims of domestic violence, sexual assault, or stalking, taking time off to seek medical attention for injuries caused by the domestic violence, sexual assault, or stalking; to obtain services from a domestic violence shelter, program, or rape crisis center as a result of domestic violence, sexual assault, or stalking; to obtain psychological counseling related to an experience of domestic violence, sexual assault, or stalking; and to participate in safety planning and take other actions to increase safety from future domestic violence, sexual assault, or stalking, including temporary or permanent relocation.
  - d. For bereavement leave in the event of death of an employee's family member, as long as the employee has exhausted all other available paid leaves of absence.
6. Work-related Injury or Illness. When an injury or illness is job-related, the employee shall be charged with Sick Leave usage only to the extent that their salary is not covered by worker's compensation.
7. Request for Sick Leave.
  - a. An employee shall contact his or her immediate supervisor prior to or within one hour of the commencement of their work shift, or as soon as practicable, to report the need for Sick Leave for a Permitted Purpose. If no immediate supervisor is available, an employee shall contact his or her department head. Consideration shall be given to emergency situations that restrict the employee from contacting his or her immediate supervisor within the first hour of work including, but not limited to: accident, injury, or hospitalization.

- b. If the need for Sick Leave unforeseeably arises at an employee's work site, the employee shall notify his or her immediate supervisor before the employee leaves the work site due to a Permitted Purpose prior to completion of the work shift, or as soon as practicable.
  - c. When an employee has advance notice of the need for Sick Leave, such as when scheduling non-emergency medical or dental appointments, the employee is required to notify his or her supervisor at least one working day in advance of his or her need for Sick Leave. Employees are encouraged to schedule medical and dental appointments outside normal working hours if possible.
  - d. Employees are not responsible for finding other employees to cover shifts due to their use of Sick Leave.
8. Verification of Continuing Need for Sick Leave. In cases where an employee uses Sick Leave for four or more consecutive days, or when the employee has been frequently absent (more than four cumulative days in a calendar year), the City Manager or supervisor may require verification that the Sick Leave is needed for a Permitted Purpose.
9. Minimum Increments of Sick Leave. The minimum charge to an employee's Sick Leave account shall be one-half hour, and will be rounded up to the next half hour. For example, an employee who is gone from work for two hours and ten minutes will be charged two and one-half hours of Sick Leave.
10. Notice of Available Sick Leave. An employee's paystub will display the amount of available Sick Leave.
11. No Lending of Sick Leave. The City will not lend or advance Sick Leave to any employee prior to accrual.
12. No Compensation for Unused Sick Leave. No employee shall be compensated for, or allowed to exhaust any earned Sick Leave upon resignation, retirement, termination, dismissal, lay-off or death.
13. Reinstatement of Unused Sick Leave. Any unused Sick Leave at separation shall be reinstated upon return to active status with the City occurring within no more than 12 months of separation. The employee shall be entitled to use the reinstated Sick Leave and to accrue additional Sick Leave upon rehiring. Use of any reinstated Sick Leave is governed by the provisions in Section X1.E of these Personnel Rules.
14. Records Documenting Hours Worked and Sick Days Accrued and Used. The City shall keep records documenting the hours worked and Sick Leave earned and used by an employee for 3 years.

15. Employee Inspection of Records Pertaining to Sick Leave. Upon reasonable request, and within 21 calendar days after the request, the City shall afford current and former employees the right to inspect or copy records pertaining to their hours worked and paid sick days accrued and used.
  16. Partial Cash Out of Sick Leave Upon Termination.
    - a. Executive Level Employees. Executive employees, as defined in the benefits ordinance, will be permitted to cash out part of their sick leave upon termination in accordance with this Section. Unless he/she is terminated for cause, the City shall compensate the executive employee for 50% of the executive employee's accumulated, but unused, sick leave at the executive employee's base rate of pay at the time of termination. Sick leave that is converted to CalPERS service credit cannot be included in this partial cash out.
    - b. All Other Employees. Employees, other than executive employees, will be permitted to cash out part of their sick leave upon termination in accordance with this Section. Employees shall become eligible for this partial cash out of sick leave upon completion of five years of continuous service with the City of Wildomar. Unless he/she is terminated for cause, the City shall compensate the employee for 50% of the employee's accumulated, but unused, sick leave at the employee's base rate of pay at the time of termination. Sick leave that is converted to CalPERS service credit cannot be included in this partial cash out.
  17. Abuse of Sick Leave. Abuse of Sick Leave may be grounds for discipline. Abuse will be determined on a case-by-case basis. Sick Leave abuse may include, but is not limited to, failure to abide by the provisions of this rule, and use of Sick Leave for purposes other than the Permitted Purposes described in this Section.
- F. **Bereavement Leave.** Upon request to his/her Supervisor, an employee shall be eligible to receive necessary time off, not to exceed 40 hours per year, to arrange for or attend a funeral of a member of his/her immediate family. These 40 hours of bereavement leave, shall be with pay and shall not be chargeable to any other leave balance. Bereavement leave shall not exceed 40 hours per year. For purposes of this Section, immediate family shall mean father, father-in-law, mother, mother-in-law, stepparent, brother, brother-in-law, sister, sister-in-law, spouse, domestic partner, child, grandparent, grandchild, legal guardian or legal ward.
- G. **Military Leave.** Military leave with or without pay shall be granted in accordance with Section 395 of the California Military and Veteran's Code and the Uniformed

Services Employment and Reemployment Rights Act. In addition, leave for military exigency or military caregiver shall be granted in accordance with the Family and Medical Leave Act, as set forth in the City's FMLA/CFRA/PDL Administrative Policy, pursuant to Rule XI.J.

H. **Jury Duty.**

1. An employee summoned for jury duty will immediately notify the City Manager. While serving on a jury, he/she will be given a leave of absence with pay for up to ten days of jury duty. Such leave of absence with pay is conditional upon the employee returning to work upon his/her dismissal each day to complete his/her normal work day. Employees who fail to return to work are required to use other accrued paid leaves for that period of the employee's absence. Such leave is also conditional upon the employee's conveyance to the City of any compensation received as a juror, not including any travel allowance received.
2. An employee required to serve on a jury for longer than ten days may elect to use any accrued paid leaves, other than sick leave, for the time spent on jury duty after the ten days of jury duty paid leave have been exhausted. An employee is not required to convey compensation received as a juror in this circumstance

I. **Pregnancy Disability Leave.** Employees who are disabled due to pregnancy, childbirth, or related medical conditions shall be granted leave in accordance with the California Pregnancy Disability Leave Law, the Family Medical Leave Act, and the California Family Rights Act. The full provisions governing such leave will be set forth in an administrative policy.

J. **Family Care and Medical Leave.** Employees shall be granted family care or medical leave in accordance with the Family Medical Leave Act and the California Family Rights Act. The full provisions governing such leave will be set forth in an administrative policy.

K. **Leave of Absence Without Pay.** The Personnel Officer, in his/her discretion, may grant an employee leave of absence without pay for up to three months. After the initial three months of leave of absence without pay, the Personnel Officer may, in his/her discretion, extend the leave for up to nine additional months in a maximum of three-month increments. However, unless otherwise required by law, in no circumstances shall the total amount of unpaid leave be longer than 12 months. The Personnel Officer may require sufficient documentation establishing the employee's need for leave.

1. **Exhaustion of Paid Leaves.**

- a. **Non-medical Leave of Absence Without Pay.** An employee requesting leave under this section for nonmedical reasons is required to fully exhaust all of his/her paid leaves, except sick



leave, in order to be eligible to receive a leave of absence without pay.

b. Medical Leave of Absence Without Pay. An employee requesting leave under this section for medical reasons is required to fully exhaust all of his/her paid leaves, including sick leave, in order to be eligible to receive a leave of absence without pay.

2. Accrual of Benefits. Leave of absence without pay shall not be construed as a break in service or employment, and rights accrued at the time leave is granted shall be retained by the employee; however, vacation credits, sick leave credits, increases in salary and other similar benefits shall not accrue to a person granted such leave during the period of absence. An employee reinstated after leave of absence without pay shall receive the same step in the salary range he/she received when he/she began his/her leave of absence. Time spent on such leave without pay shall not count toward service for increases within the salary range, and the employee's salary anniversary date shall be set forward by an amount equal to the days of unpaid leave taken by the employee. Failure to Return from Leave. If an employee takes any action during his/her leave that is inconsistent with an intention to return to employment with the City, such as accepting full-time employment with another employer, he/she will be considered to have voluntarily terminated his/her employment. Failure of the employee to return to his/her employment upon the termination of any authorized leave of absence shall constitute an automatic termination from City service of that employee, unless such leave is extended.

L. Management Leave. As compensation for the unique nature of their jobs, the City provides Management Leave in the form of additional time off, as follows:

1. Employees in the executive classification, as defined in the Benefits Ordinance, shall receive 80 hours of management leave per calendar year.
2. Employees in the management classification, as defined in the Benefits Ordinance, shall receive 60 hours of management leave per calendar year.

Management leave shall vest on July 1<sup>st</sup> of each year. Management and supervisory employees hired during the fiscal year shall be credited with a prorated number of administrative leave hours based on the number of months of the fiscal year for which the individual is employed. One day worked in a particular month shall be considered as qualifying for that month.

Management leave cannot be carried forward from year to year, and any unused leave will be cashed out on June 30th of each year.

M. **Fitness for Duty Leave.**

1. **Purpose/Policy.** Employees are expected to report to work fit for duty, which means able to perform their job duties in a safe, appropriate, and effective manner, free from adverse effects of physical, mental, emotional, and/or personal problems. This Rule is intended to provide a safe environment and protect the health and welfare of employees and the public. If an employee feels that he/she is not fit to perform his/her duties, he/she must notify his/her supervisor immediately.
2. **Reasons for Fitness for Duty Leave.** A fitness for duty examination may be ordered in any of the following situations:
  - a. An employee returns from a medical leave of absence of more than five working days.
  - b. An employee is involved in the interactive process with the City under Rule III.C.
  - c. Supervisor observes or receives a reliable report of an employee's possible lack of fitness for duty. Observations and reports may be based on, but are not limited to, employee's own self-report of potential unfitness, dexterity, coordination, alertness, speech, vision acuity, concentration, response to criticism, interactions with the public, co-workers, and supervisors.
  - d. Fitness for duty examinations based on a reasonable suspicion that an employee is under the influence of illegal drugs or alcohol shall be conducted in accordance with the City's Drug-Free Workplace Policy.
3. **Procedures for Ordering a Fitness for Duty Examination.** When a supervisor becomes aware of or observes behavior that makes him/her reasonably suspect that the employee may not be fit for duty, the supervisor shall refer the employee to the Personnel Officer who will determine whether a fitness for duty examination is necessary and should be scheduled. If the circumstances warrant it, the Personnel Officer may place the employee on a paid or unpaid leave pending the results of the employee's fitness for duty examination. The examination shall be paid for by the City.
4. **Procedure Following Receipt of Examination Results.** The doctor examining the employee shall be limited to finding the employee "fit for duty" or "fit for duty with restrictions" or "unfit for duty." In the case of finding an employee fit for duty, the doctor may issue work restrictions. In no case shall the doctor reveal the underlying cause of the fit or unfitness for duty without the employee's permission.

- a. Fit for Duty. If the doctor finds the employee is fit for duty, the employee shall return to work immediately and perform all duties of his/her position.
- b. Fit for Duty with Restrictions. If the doctor finds the employee is fit for duty with restrictions, the doctor shall specifically list what restrictions are necessary and for how long those restrictions are necessary. If the employee's restrictions are based on a disability as defined by the ADA and/or FEHA, the City shall engage in the interactive process as set forth in Rule III.C. The City shall then evaluate those restrictions and determine if the restrictions can be reasonably accommodated.
- c. Unfit for Duty. If the employee is found to be unfit for duty, he/she shall not be permitted to work. He/She may request a leave of absence in accordance with the appropriate subsection of this Rule. If the employee can provide certification of fitness for duty prior to the exhaustion of all paid and unpaid leave that he/she is entitled to under these Personnel Rules, the employee shall be returned to work. However, if such certification is from the employee's own health care provider, the City may request a second opinion from a doctor of its choosing and at its cost to evaluate the employee under the requirements of this section. If the two certifications conflict, a third opinion will be sought from a doctor chosen by the City and the employee, at the expense of the City. The opinion of fit or unfit rendered by the third doctor shall be binding. If the employee's restrictions are based on a disability as defined by the ADA and/or FEHA, the City shall engage in the interactive process as set forth in Rule III.C.

## **RULE XII.LAYOFF/SEPARATION/RETIREMENT**

- A. Layoff. Whenever, in the judgment of the City Council, it becomes necessary to abolish any position or employment, the employee holding such position or employment, may be laid off without disciplinary action and without the right of appeal, unless otherwise required by law. The City Manager shall determine the class and number of positions within each class to be affected, as well as the effective date of the layoff.
  1. Notification. Employees to be laid off shall be given, whenever possible, at least 14 days prior notice.
  2. Order of Layoff. In each class of position, employees shall be laid off according to the needs of the service as determined by the Department Head and the Personnel Officer.

3. Reemployment List. The names of persons laid off or demoted in accordance with this section shall be entered upon a reemployment list. Lists from different departments or at different times for the same class of position shall be combined into a single list. Such list shall be used by every Department Head when a vacancy arises in the same or lower class of position before certification is made from an eligible list or starting a recruitment. Names of persons laid off shall be carried on a reemployment list for one year, except that persons appointed to a position of the same level as that which laid off, shall, upon such appointment, be dropped from the list. Persons who refuse reemployment shall be dropped from the list. Persons reemployed in a lower class, or on a temporary basis, shall be continued on the list for the higher position for one year.
- B. Resignations. Resigning employees shall be required to file a written resignation stating the effective date and reason(s) at least two weeks prior to leaving the City's service, unless the time limit is waived by the City Manager. The resignation date should be the last day the employee actually worked.
- C. Terminations. The City Manager may terminate any employee at any time with or without cause and with or without notice.
- D. Retirement/Disability Retirement. In accordance with the City's contract with the California Public Employees' Retirement System (CalPERS), employees who meet the age and service credit minimums may qualify for a service retirement from CalPERS. Under CalPERS laws, an employee who is unable to perform his/her job because of an illness or injury which is expected to be permanent or last indefinitely, may be entitled to receive a disability retirement.

### **RULE XIII. ETHICAL STANDARDS**

- A. Outside Employment, Enterprise, or Activity. In accordance with California Government Code Title 1, Division 4, Chapter 1, Article 4.7, no employees may engage in any outside employment, enterprise, or activity that is inconsistent, incompatible, in conflict with, or adverse to his/her employment, their ability to perform their duties and responsibilities, including performance of overtime work and emergency duties, or any other aspect of City operations.
  1. Employees are required to notify their Department Head in writing of all outside employment in which they are engaged, regardless of when that outside employment began, so that the City may assess whether such outside employment conflicts with the employee's City employment. An employee's outside employment, enterprise, or activity will be prohibited when any of the following are present:

- a. It involves the use for private gain or advantage of his/her City time, facilities, equipment and/or supplies; or the badge, uniform, prestige, or influence of his/her City employment;
  - b. It involves the receipt or acceptance by the employee of any money or other consideration from anyone other than the City for the performance of an act which the employee, if not performing such act, would be required or expected to render in the regular course or hours of his/her City employment or as part of his/her duties as a City employee;
  - c. It involves the performance of an act, in other than his/her capacity as a City employee, which may later be subject directly or indirectly to the control, inspection, review, audit, or enforcement of any other officer or employee of the City; or
  - d. It involves the time demands as would render performance of his/her duties as a City employee less efficient.
2. When outside employment is reported to a Department Head, the Department Head shall notify the Personnel Officer of all pertinent details of the outside employment. The Personnel Officer shall determine whether the employee's outside employment conflicts with the performance of his/her duties, and shall advise the employee and the Department Head of his/her determination in writing. An employee who is unsatisfied with the decision of the Personnel Officer may appeal the decision to the City Manager. An employee wishing to appeal this determination must file a written appeal to the City Manager within 10 days of receipt of the Personnel Officer's decision. The City Manager shall meet with the employee and determine whether the employee's outside employment conflicts with the performance of his/her duties. The City Manager shall advise the employee, the Department Head, and the Personnel Officer of his/her determination in writing within 15 days of meeting with the employee.
- B. **Political Activities**. Consistent with the provisions of California Government Code Title 1, Division 4, Chapter 9.5, employees may not engage in political activity during working hours, while on City property on which members of the public would not be entitled to engage in political activities, or while in uniform.
- C. **Contracts and Conflicts of Interest**. In accordance with California Government Code Title 1, Division 4, Chapter 1, Article 4, no City employee can be financially interested in any contract made by him/her in his/her official capacity, or by any body or board of which he/she is a member. All employees of the City are required to adhere to the provisions of Article 4 of Title 1, Division 4, Chapter 1 of the Government Code.

- D. **Conduct During the Workday.** During the workday, employees are expected to devote their full time in the performance of their assigned duties. Any approved outside work, part-time job, hobbies, or personal business must be performed during off-duty hours. Off-duty hours include unpaid lunch break periods, but do not include other rest or break periods during which the employee continues to receive pay.
- E. **Employees with Access to Confidential Information.** In performing their duties, employees may have access to confidential information, including, but not limited to, employees' personnel files and the personal or financial information of other City employees or persons who do business with the City. In addition, some City employees will be involved in some communications with the City Attorney's Office, which can be protected by the attorney-client privilege. Employees with such access are required to keep such information confidential.
- F. **Solicitation of Political Contributions.** Consistent with the provisions of California Government Code Title 1, Division 4, Chapter 9.5, no City employee may knowingly, directly or indirectly, solicit a political contribution from a City employee, City officer, or person on an employment list. However, this does not prohibit City employees from requesting political contributions if the solicitation is part of a solicitation made to a significant segment of the public, which may include City employees. This also does not prohibit a City employee from soliciting or receiving political funds or contributions to promote the passage of or defeat of a ballot measure which would affect the rate of pay, hours of work, retirement, civil service, or other working conditions of City employees, provided that such solicitation cannot occur during working hours or while on City property. For purposes of this section, "contribution" means a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment except to the extent that full and adequate consideration is received, unless it is clear from the surrounding circumstances that it is not made for political purposes.

#### **RULE XIV. DISCIPLINARY ACTIONS**

- A. **Reason for Disciplinary Action.** While the City maintains an at-will employment environment, the City also reserves the right to take disciplinary actions against any employee. Disciplinary measures may be taken for any good and sufficient cause. Cause may include, but is not limited to, violation of the personnel ordinance or of these personnel rules or any policies, procedures, personnel rules and/or regulations of the employee's department, any act of insubordination or act detrimental to the public service, refusal or inability to comply with the duties of the position occupied by the employee, or any other type of misfeasance, malfeasance or nonfeasance relating to his/her duties, office or position.
- B. **Types of Disciplinary Actions.** The City employs a disciplinary system, which includes a variety of levels of disciplinary actions, up to and including termination

of employment. However, nothing in this disciplinary policy should be interpreted in any way that would affect the employee's at-will employment status. Notwithstanding any provision of this policy, all employees may be terminated at any time, with or without notice, and with or without cause. The City may take any of the following types of disciplinary actions against its employees:

1. Verbal Reprimand. Verbal reprimand as a disciplinary action means the employee is informed of his/her poor performance or misconduct verbally by his/her supervisor.
2. Written Reprimand. Written reprimand as a disciplinary action means an official notification to the employee that there is cause for dissatisfaction with his/her services and that further disciplinary measures may be taken if such cause is not corrected. Official reprimand shall be given in the manner prescribed by the Personnel Officer. Reprimand notices shall be made a part of the employee's official personnel record.
3. Suspension Without Pay. Suspension without pay shall be a temporary separation from City service.
4. Reduction In Range. Reduction in step within range as a disciplinary measure is the withdrawal of increments granted for merit, efficiency and length of service. Reduction in pay shall become effective on the first pay period following the effective date of the disciplinary action.
5. Involuntary Demotion. Demotion without consent shall include a reduction in classification or rank, with commensurate reduction in salary.
6. Termination. Termination is the permanent dismissal of an employee from the City service by the City Manager.

**C. Authority for Disciplinary Actions.**

1. The Department Heads and/or City Manager shall have authority to take disciplinary action and they may delegate to certain of their subordinate supervisory employees the authority to make official reprimands. Only the City Manager may terminate employees.
2. The Personnel Officer shall be notified of any contemplated disciplinary action prior to the time it is taken.

**D. Notice of Disciplinary Action.** When disciplinary action is to be taken against an employee, the Department Head or City Manager shall notify the employee in writing of the disciplinary action to be taken, the reasons for the disciplinary action, and the effective date of such disciplinary action, if applicable. Because all employees are at-will, there is generally no right to challenge disciplinary action. However, in certain circumstances, the employee may be entitled to a name-clearing hearing before the Personnel Officer. If the employee satisfies the

criteria in Rule XIV.E.1., the City shall provide the employee with at least five days' notice of its intent to discipline the employee. During those five days, the employee may request a name-clearing hearing. If the employee does not request a name-clearing hearing, then he/she will have been deemed to have waived his/her right to said hearing. If the employee requests a hearing in accordance with Rule XIV.E., then the Personnel Officer will make all necessary arrangements for the hearing prior to imposing the disciplinary action. If the employee does not meet the criteria set forth in Rule XIV.E.1., then he/she is not entitled to any hearing, appeal, or waiting time before the disciplinary action is imposed on the employee.

E. **Name-Clearing Hearing.** In certain circumstances, an employee may be entitled to a name-clearing hearing before the disciplinary action is imposed by the City. In such circumstances, the employee will be entitled to a name-clearing hearing in accordance with this Section.

1. **Criteria for Entitlement to a Name-Clearing Hearing.** In accordance with state and federal law, when the following three elements are present, the employee is entitled to a name-clearing hearing:
  - a. A stigmatizing charge.
  - b. The employee's denial of the stigmatizing charge.
  - c. Public disclosure of the stigmatizing charge.
2. **Name-Clearing Hearing.** If the employee has satisfied all three criteria set forth in Rule XIV.E.1., then the employee is entitled to a hearing in order to clear his/her name. If the employee desires a name-clearing hearing, he/she must file a written request with the Personnel Officer within five days of receiving notice from the City of its intent to impose disciplinary action. Failure to timely request a hearing shall constitute a waiver of the right to a hearing. The hearing shall be before the Personnel Officer. The employee is not entitled to a full evidentiary hearing, but is only entitled to the opportunity to clear his/her name of the stigmatizing charge(s). All name-clearing hearings shall be held in private unless the employee requests a public hearing in writing.

## **RULE XV. GRIEVANCE PROCEDURE**

A. **Purpose of the Grievance Procedure.** The grievance procedure shall be used to resolve employee complaints regarding an alleged violation or interpretation of the City's personnel ordinance or these personnel rules. Specifically excluded from the grievance procedure are:

1. Performance evaluations;
2. Deferred merit salary increases;



3. Verbal counseling;
4. Policy decisions of the City Council;
5. Disciplinary actions;
6. Transfer to another position without a loss of pay; and
7. Matters for which there is a separate appeal.

**B. Grievance Procedure.**

1. Step 1. The employee shall inform, in writing, his/her immediate supervisor of his/her grievance and relevant facts within seven days after the employee knew, or in the exercise of reasonable diligence should have known, of the events giving rise to the grievance. The grievance must include a statement of the event causing the grievance; the personnel rule or provision of the personnel ordinance alleged to have been violated; the relief sought by the employee; and any potential witnesses. Failure to fully complete the grievance form may result in a delay in processing the grievance. At least one conference shall be held between the employee and his/her immediate supervisor after the employee has expressed his/her grievance. The supervisor shall advise the employee of his/her decision within 14 days following notification of the grievance.
2. Step 2. If the grievance is not satisfactorily resolved in Step 1, the grievant may, within seven days after receipt of his/her supervisor's response, submit the grievance to his/her Department Head. Such submittal shall be in writing and include the original of the grievance form. The grievance must include a statement of the event causing the grievance; the personnel rule or provision of the personnel ordinance alleged to have been violated; the relief sought by the employee; and any potential witnesses. After receipt of the grievance, the Department Head will meet with the grievant and make such investigation as is required. Within seven days of his/her meeting with the grievant, the Department Head shall return the original of the grievance form to the employee along with his/her written decision on the grievance.
3. Step 3. If the grievance is not satisfactorily resolved in Step 2, the grievant may, within seven days of receipt of the Department Head's decision, submit the grievance to the Personnel Officer for consideration by the City Manager. Such submittal shall include the original of the grievance form; a statement of the event causing the grievance; the personnel rule or provision of the personnel ordinance alleged to have been violated; the relief sought by the employee; any potential witnesses; a written statement of any issues which are still in dispute; and the specific basis upon which the grievant takes issues with the position of

his/her Department Head. The City Manager or his/her designee shall take such review and investigative action as he/she deems necessary and inform the grievant of his/her decision within 14 days of receipt of the grievance. The decision of the City Manager is final and no further appeal may be had by the employee.

C. **General Provisions.**

1. No retribution or prejudice shall be suffered by employees making good faith use of the grievance procedure.
2. Failure by management at any step of this procedure to communicate the decision of the grievance within the specified time limits shall permit the grievant to proceed to the next step. The grievant shall be entitled to be present at all steps of the procedure.
3. Failure at any step of this procedure to appeal a decision on a grievance within specified time limits shall be deemed acceptance of the decision rendered, and the grievant waives all further appeal of the matter.
4. The time limits specified at any step in this procedure may be extended by mutual written agreement.
5. The original of the grievance form shall accompany all requests for institution of the next step in the grievance procedure, and shall be maintained in the employee's personnel file at the completion of the grievance procedure.
6. Communication with grievant shall be processed by personal signed receipt of document, certified mail or registered mail.

**RULE XVI. EMPLOYMENT BENEFITS**

A. **Health Benefits.** Accident, health, hospital, dental and vision insurance to cover non-occupational injuries and sickness for full-time employees will be provided by the City, as set forth in the benefits schedule.

1. Any employee who does not use his/her full allotment for medical, dental and vision benefits may apply the remaining amount to cover the costs of other insurances, such as supplemental insurance plans.
2. The City does not permit employees to take a "cash out" or "cash in lieu" of the medical, dental or vision insurance allotment.
3. The City contributes directly to the cost of health care premiums in accordance with Resolution 2010-48, or as may be subsequently amended. The City reserves the right to modify the contribution amount

or to terminate its participation in the PEMHCA program at any time in accordance with the CalPERS rules.

- B. **Retirement Benefits.** The City has contracted with the California Public Employees' Retirement System (CalPERS) for retirement benefits
1. **Classic Members.** Classic Members of CalPERS receive the 2.7 percent at age 55 retirement plan.
  2. **New Members.** New Members of CalPERS receive the 2.0 percent at age 62 retirement plan.

## **RULE XVII. EDUCATIONAL ASSISTANCE**

A. **Educational Reimbursement for Training and Advancement.**

The responsibility for developing training programs for employees is with the City Manager and Department Heads, jointly. When an educational course to be taken by an employee will benefit the City, the City Manager may authorize payment by the City of tuition charges and books. An "educational course" may include courses that are in furtherance of a degree, other college-credit courses, or training. In order to be eligible for educational reimbursement, the employee must obtain written approval of the City Manager prior to enrolling in any courses. Educational reimbursement shall not exceed \$1,500.00 in any fiscal year, and is not compensation reportable for retirement purposes.

B. **Licenses and Certification Assistance.**

1. In cases of enrollment for any certification which is a condition of employment, the City shall pay required application fees in advance.
2. The cost of licensing fees, renewal fees, and test fees for all levels of certification are reimbursable, upon receipt of the certification or license. To obtain reimbursement after successful completion of the test/renewal/license process, the employee is responsible for submitting proof of payment for test fees, renewal fees, and license fees, along with proof of the certification or license, to the City Manager. In unusual circumstances, the City Manager may authorize the payment of the test/renewal/license fees in advance.

## **RULE XVIII. WORKPLACE VIOLENCE PREVENTION**

- A. **Objective.** The City is strongly committed to ensuring the safety of all City employees. Consistent with this policy, acts or threats of violence, including intimidation, harassment, and/or coercion which involve or affect City employees will not be tolerated and will be subject to appropriate disciplinary action up to and including termination. The following are the objectives of the City:

1. To ensure all workplace threats and violent behavior are addressed promptly.
2. To ensure the level of physical and facility security in City workplaces is sufficient to protect the health and safety of City employees.
3. To ensure that all disciplinary action taken for behavior prohibited under this Section is reviewed, evaluated, and administered consistently and equitably throughout the City and done so in a timely manner.

B. Threats or Acts of Violence Defined. A credible threat of violence is a knowing and willful statement or course of conduct that would place a reasonable person in fear for his/her safety, or the safety of his/her immediate family, and that serves no legitimate purpose. General examples of prohibited workplace violence include, but are not limited to the following:

1. Threatening to harm or harming an individual and/or his/her family, friends, associates, and/or their property.
2. Fighting or challenging another individual to a fight.
3. Intimidation through direct or veiled verbal threats, or through physical threats, such as obscene gestures, grabbing, and pushing.
4. Making harassing or threatening telephone calls; sending harassing or threatening letters, emails, or other correspondence.
5. Intimidating or attempting to coerce an employee to do wrongful acts that would affect the business interests of the City.
6. Harassing surveillance or stalking, which is engaging in a pattern of conduct with the intent to follow, alarm, or harass another individual, which presents a credible threat to the individual and causes the individual to fear for his/her safety, or the safety of his/her immediate family, as defined in California Civil Code section 1708.7.
7. Making a suggestion or otherwise intimating that an act to injure persons or property is appropriate behavior.
8. Possession of firearms (loaded or unloaded), weapons, or any other dangerous devices on City property. This includes look-alike weapons, such as toy guns. Weapons and dangerous devices may include, but are not limited to the following, when their possession or use is not expressly authorized by a City supervisor or manager: blackjacks, slingshots, metal knuckles, explosive substances, dirks, daggers, gas- or spring-operated guns, knives, folding knives having a blade that locks into place, razor blades, and clubs.

9. Use of a personal or City-issued tool or other equipment in a threatening manner toward another.
- C. Reporting Workplace Violence. Any employee who is the victim of a threat or act of violence, or any employee who witnesses such conduct, should immediately report the incident to his/her Supervisor or other appropriate person in the chain of command. Should the employee perceive that he/she is in immediate danger of a violent act, or has just been victimized by a violent act, or is a witness of a violent act, he/she shall as soon as possible:
1. Place themselves in a safe location.
  2. If appropriate, call 911 and request immediate response of a police officer and be prepared to inform the police dispatcher of the circumstances and the exact location of where an officer is needed.
  3. Inform a Supervisor, Department Head, or the Personnel Officer of the circumstances.
  4. Complete a written report as soon as possible and submit the original copy to the Personnel Officer.
  5. Cooperate fully in any administrative or criminal investigation, which shall be conducted within existing policy and laws.
- D. Reporting Future Workplace Violence. Employees who have reason to believe they or any City employee may be the subject of a violent act in the workplace or as a result of their City employment, should immediately notify their Supervisor, Department Head, or the Personnel Officer.
- E. Violation of Article. The City prohibition against threats and acts of violence applies to all persons involving City operation, including but not limited to City personnel, contract and temporary workers, vendors, and anyone else on City property. Violations of this Rule by any individual may be followed by legal action as appropriate, which may include, seeking a temporary restraining order and/or injunction on behalf of City employees if the situation warrants such action. In addition to appropriate legal action, violations of this Rule by employees, including making a false report under this Rule, may lead to appropriate disciplinary action, up to and including termination.

## **RULE XIX. DRUG-FREE WORKPLACE POLICY**

It is the desire of the City that all work environments of employees be safe and productive and free of the influence of drugs and alcohol. The City is concerned with the physical safety of all employees, potential damage to property and equipment, mental and physical health of employees, productivity and work quality, medical insurance costs, and the harm done to employees and their families by drug and alcohol abuse. The full provisions regarding drugs and alcohol in the workplace will be set forth in an

administrative policy.

## **RULE XX. ELECTRONIC COMMUNICATIONS POLICY**

The City provides its employees with certain electronic communications devices. Employees should be aware that no computer usage including messages transmitted or received on the computer system are private or confidential. The City's full policy regarding the use of electronic communications equipment will be set forth in an administrative policy.

## **RULE XXI. UNIFORMS AND EQUIPMENT**

- A. Uniforms. Certain employees are required to wear a uniform in the performance of their job duties. All uniforms are expected to be clean and in good repair. The City will furnish these uniforms to employees at the City's expense. The City will also be responsible for the maintenance, cleaning, and replacement of uniforms, at the City's expense.

City uniforms are not suitable for everyday wear outside working hours, and that employee shall wear the uniforms only while on duty and traveling to and from City work. Employees in the classifications required to wear uniforms shall wear the uniforms as a condition of employment while on City duty.

- B. Equipment. The City shall provide employees with the essential equipment to perform the duties of their positions. Employees are responsible for requesting training on equipment that they are unfamiliar with. Also, employees are responsible for the proper operation and maintenance of all equipment.
- C. Safety Equipment and Protective Clothing. Certain employees will be required to wear approved safety shoes and other safety equipment and protective clothing. Such employees failing or refusing to wear such safety equipment and protective clothing as appropriate will be subject to disciplinary action up to and including termination. If any employee is unable to wear such safety equipment and protective clothing for medical reasons, the employee must submit to the City a doctor's statement covering the reasons.

## **RULE XXII. EMPLOYEE REIMBURSEMENTS AND ALLOWANCES**

- A. Reimbursement. Employees who are required to use their personal electronic devices and/or personal automobiles during the course of their employment will be entitled to receive reimbursement for the costs of actual expenses incurred in the performance of their duties. Employees are required to submit receipts in support of their claimed expenses.
- B. Allowance. Certain employees may be provided with a monthly allowance to compensate the employee for the use of their personal electronic devices and/or personal automobile during the course of their employment. The City Manager, in his/her sole discretion will have the ability to determine which employees are

eligible for such an allowance. If an employee receives an allowance under this section, he/she is not eligible for reimbursement under Section A of this Rule, unless the employee provides receipts establishing that the allowance was insufficient to compensate the employee for all work-related use of his/her personal device and/or automobile. When eligible for an allowance, the following amounts may be provided:

1. Personal electronic device (voice/telephone only): \$60/month
2. Personal electronic device (data plan only): \$60/month
3. Personal electronic device (voice and data): \$120/month
4. Automobile: up to \$500/month (varies per position and usage)

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